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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,290	01/11/2002	Jagadish Bandhole	020706-000910US	6856
20350	7590	12/02/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP			FOWLKES, ANDRE R	
TWO EMBARCADERO CENTER			ART UNIT	PAPER NUMBER
EIGHTH FLOOR			2122	
SAN FRANCISCO, CA 94111-3834				

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/044,290	BANDHOLE ET AL.	
	Examiner	Art Unit	
	Andre R. Fowlkes	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 April 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 April 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 are pending.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by White, U.S. Patent No. 5,896,530.

As per claim 1, White discloses a **method of using a dynamic computing environment ("DCE") for a plurality of phases in a software lifecycle**, (col. 1:12-17,

"This invention relates ... to a system and method (i.e. a DCE) enabling a plurality of computers and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process a variety of (software lifecycle) applications"), **the method comprising:**

- configuring the dynamic computing environment for a first phase in the plurality of phases (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)")

- using the configured dynamic computing environment in the first phase (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)")

- configuring the dynamic computing environment for a second phase in the plurality of phases (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)")

- using the configured dynamic computing environment in the second phase (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of

which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)").

As per claim 2, the rejection of claim 1 is incorporated and further, White discloses that **the plurality of phases comprise a development phase** (col. 4:22, "enabling development of application(s)").

As per claim 3, the rejection of claim 2 is incorporated and further, White discloses:

- using the configured DCE for a first task (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. multiple tasks processed simultaneously)'),

- using the configured DCE simultaneously with the first task for a second task (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. multiple tasks processed simultaneously)').

As per claim 4, the rejection of claim 1 is incorporated and further, White discloses that **the plurality of phases comprise an integration phase** (col. 4:25-26, "enabling applications to be tested as large integrated applications").

As per claim 5, the rejection of claim 4 is incorporated and further, White discloses **using the DCE for integrating the software** (col. 4:25-26, "enabling applications to be tested as large integrated applications").

As per claim 6, the rejection of claim 1 is incorporated and further, White discloses that **the plurality of phases comprise a testing phase** (col. 4:25-26, "enabling applications to be tested").

As per claim 7; the rejection of claim 6 is incorporated and further, White discloses **re-confirming a clean environment in the DCE during the testing phase** (col. 18:3-5, "when installing an application in a new system or when redeploying a new release of an application").

As per claim 8, the rejection of claim 1 is incorporated and further, White discloses **a beta testing phase** (col. 4:25-26, "enabling applications to be tested").

As per claim 9, the rejection of claim 8 is incorporated and further, White discloses **installing software on the DCE, wherein using the configured dynamic**

computing environment comprises beta testing the software using the DCE (col. 18:3-5, "when installing an application in a new system or when redeploying a new release of an application", and col. 4:25-26, "enabling applications to be tested").

As per claim 10, the rejection of claim 1 is incorporated and further, White discloses **a staging phase** (col. 10:12, "(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment").

As per claim 11, the rejection of claim 10 is incorporated and further, White discloses **installing a new version of the software, wherein using the configured dynamic computing environment comprises enabling access for at least one user to the new version of the software** (col. 18:3-5, "when installing an application in a new system or when redeploying a new release of an application").

As per claim 12, the rejection of claim 1 is incorporated and further, White discloses **a deployment phase** (col. 10:12, "(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These

stages can be defined as definition (i.e. staging), composition, construction and deployment").

As per claim 13, the rejection of claim 12 is incorporated and further, White discloses **testing the software; and updating the software if updates are required** (col. 4:25-26, "enabling applications to be tested", and col. 4:19-20, "providing real time application upgrades").

As per claim 14, the rejection of claim 1 is incorporated and further, White discloses that **the software lifecycle comprises a shrink-wrap lifecycle** (col. 10:12, "(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment", and the White system allows all of the operations performed during shrink wrap lifecycle development).

As per claim 15, the rejection of claim 1 is incorporated and further, White discloses that **the software lifecycle comprises a web site lifecycle** (col. 10:12, "(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging),

composition, construction and deployment”, and the White system allows all of the operations performed during website lifecycle development).

As per claim 16, the rejection of claim 1 is incorporated and further, White discloses that **the software lifecycle comprises an ASP lifecycle** (col. 10:12, “(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment”, and the White system allows all of the operations performed during ASP lifecycle development).

As per claims 17-19, this is another method version of the claimed method discussed above, in claims 1-16, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Whites portable and dynamic distributed applications architecture (col. 137:7-144:38).

As per claim 20, this is an apparatus version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Whites portable and dynamic distributed applications architecture (col. 137:7-144:38).

As per claim 21, this is a system version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Whites portable and dynamic distributed applications architecture (col. 137:7-144:38).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre R. Fowlkes whose telephone number is (571) 272-3697. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WEI Y. ZHEN
PRIMARY EXAMINER

ARF

